



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 18, 1992

Mr. Burton F. Raiford  
Interim Commissioner  
Texas Department of Human Services  
P. O. Box 149030  
Austin, Texas 78714-9030

OR92-349

Dear Mr. Raiford:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 15440.

The Texas Department of Human Services (the "department") received an open records request for, *inter alia*, the name and address of each person who has filed a complaint with the department's Council for Social Work Certification (the council) within the past two years. You contend that the requested information may be withheld pursuant to the informer's privilege aspect of section 3(a)(1) of the Open Records Act, which excepts "information deemed confidential by law, either Constitutional, statutory<sup>1</sup>, or by judicial decision."

Although the informer's privilege ordinarily applies to the efforts of law enforcement agencies, it can apply to administrative officials with a duty of enforcing particular laws. Attorney General Opinion MW-575 (1982); Open Records Decision Nos. 285, 279 (1981). The privilege protects the identity of persons who report violations of law that carry criminal or quasi-criminal penalties; when information does not describe conduct that violates such a law, the informer's privilege does not apply. Open Records Decision Nos. 515 (1988); 191 (1978).

Chapter 50 of the Human Resource Code and title 40, section 85.6001 *et seq.* of the Texas Administrative Code govern the licensing and regulation of certified

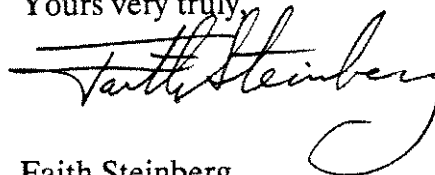
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<sup>1</sup>We note that section 50.022(b) of the Human Resources Code, which deemed as "privileged," *inter alia*, "charges" and "complaints," has been repealed. See Acts 1983, 68th Leg., ch. 87, § 13, at 428.

social workers, social workers, and social worker associates in Texas. Section 50.028 of the Human Resource Code provides that "[a] person who violates this chapter or a rule of the department pertaining to the practice of social work is subject to a *civil penalty* of not less than \$50 nor more than \$500 for each day of violation." (Emphasis added.) Because section 50.028 does not provide for criminal penalties for violations of chapter 50 of the code or of the council's administrative rules, the informer's privilege is inapplicable here.<sup>2</sup> Accordingly, the department must release the names and addresses of those who file complaints against certified social workers, social workers, and social worker associates.<sup>3</sup>

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-349.

Yours very truly,



Faith Steinberg  
Assistant Attorney General  
Opinion Committee

FS/RWP/lmm

Ref.: ID# 15440

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<sup>2</sup>The purpose of the privilege is to prevent retaliation against informants. Even if, assuming *arguendo*, the privilege were applicable to section 50.028 in some instances, we do not believe that it would be applicable here because in this instance, the identity of the complainants is in no way linked to the party complained of.

<sup>3</sup>The documents that you submitted to this office for review contain information other than that requested. This ruling expressly does not address whether the other information is subject to required public disclosure.

cc: Mr. Kenneth Bloom  
Health Policy Researcher  
Public Citizen  
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